

# PROPOSED CONSTITUTIONAL AMENDMENTS

## SENATE JOINT RESOLUTIONS

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### S.J.R. No. 10

#### SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the creation of a judicial compensation commission.

*BE IT RESOLVED BY THE Legislature of the State of Texas:*

SECTION 1. Article V, Texas Constitution, is amended by adding Section 32 to read as follows:

*Sec. 32. (a) Notwithstanding any other provisions of this constitution, the Legislature may by law create a judicial compensation commission to make recommendations for judicial salaries that become law if neither the Senate nor the House of Representatives, by majority vote, rejects the recommendations.*

*(b) Subsection (a) of this section applies only to salaries for justices and judges of the Supreme Court, the Court of Criminal Appeals, the Courts of Appeals, and the District Courts.*

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the legislature to create a judicial compensation commission."

Adopted by the Senate on April 15, 1999: Yeas 30, Nays 0; adopted by the House on May 26, 1999: Yeas 102, Nays 35, four present not voting.

Filed with the Secretary of State June 1, 1999.

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### S.J.R. No. 12

#### SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the making of advances under and payment of a reverse mortgage.

*BE IT RESOLVED BY THE Legislature of the State of Texas:*

SECTION 1. Subsections (k), (p), and (r), Section 50, Article XVI, Texas Constitution, are amended to read as follows:

(k) "Reverse mortgage" means an extension of credit:

(1) that is secured by a voluntary lien on homestead property created by a written agreement with the consent of each owner and each owner's spouse;

(2) that is made to a person who is or whose spouse is 62 [55] years or older;

(3) that is made without recourse for personal liability against each owner and the spouse of each owner;

(4) under which advances are provided to a borrower based on the equity in a borrower's homestead;

(5) that does not permit the lender to reduce the amount or number of advances because of an adjustment in the interest rate if periodic advances are to be made;

(6) that requires no payment of principal or interest until:

(A) *all borrowers have died;*

(B) *the homestead property securing the loan is sold or otherwise transferred; ~~or~~*

*(C) all borrowers cease occupying the homestead property for a period of longer than 12 consecutive months without prior written approval from the lender; or*

(D) *the borrower:*

*(i) defaults on an obligation specified in the loan documents to repair and maintain, pay taxes and assessments on, or insure the homestead property;*

*(ii) commits actual fraud in connection with the loan; or*

*(iii) fails to maintain the priority of the lender's lien on the homestead property, after the lender gives notice to the borrower, by promptly discharging any lien that has priority or may obtain priority over the lender's lien within 10 days after the date the borrower receives the notice, unless the borrower:*

*(a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to the lender;*

*(b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings so as to prevent the enforcement of the lien or forfeiture of any part of the homestead property; or*

*(c) secures from the holder of the lien an agreement satisfactory to the lender subordinating the lien to all amounts secured by the lender's lien on the homestead property ~~[(B) all borrowers cease occupying the homestead property as a principal residence for more than 180 consecutive days and the location of the homestead property owner is unknown to the lender];~~*

(7) that provides that if the lender fails to make loan advances as required in the loan documents and if the lender fails to cure the default as required in the loan documents *after notice from the borrower*, the lender forfeits all principal and interest of the reverse mortgage, *provided, however, that this subdivision does not apply when a governmental agency or instrumentality takes an assignment of the loan in order to cure the default; [and]*

(8) that is not made unless the owner of the homestead attests in writing that the owner received counseling regarding the advisability and availability of reverse mortgages and other financial alternatives;

(9) that requires the lender, at the time the loan is made, to disclose to the borrower by written notice the specific provisions contained in Subdivision (6) of this subsection under which the borrower is required to repay the loan;

(10) that does not permit the lender to commence foreclosure until the lender gives notice to the borrower, in the manner provided for a notice by mail related to the foreclosure of liens under Subsection (a)(6) of this section, that a ground for foreclosure exists and gives the borrower at least 30 days, or at least 20 days in the event of a default under Subdivision (6)(D)(iii) of this subsection, to:

(A) *remedy the condition creating the ground for foreclosure;*

(B) *pay the debt secured by the homestead property from proceeds of the sale of the homestead property by the borrower or from any other sources; or*

(C) *convey the homestead property to the lender by a deed in lieu of foreclosure; and*

(11) that is secured by a lien that may be foreclosed upon only by a court order, if the foreclosure is for a ground other than a ground stated by Subdivision (6)(A) or (B) of this subsection.

(p) The advances made on a reverse mortgage loan under which more than one advance is made must be made ~~[at regular intervals]~~ according to the terms ~~[a plan]~~ established by the ~~[original]~~ loan documents by one or more of the following methods:

(1) *at regular intervals;*

(2) at regular intervals in which the amounts advanced may be reduced, for one or more advances, at the request of the borrower; or

(3) at any time by the lender, on behalf of the borrower, if the borrower fails to timely pay any of the following that the borrower is obligated to pay under the loan documents to the extent necessary to protect the lender's interest in or the value of the homestead property:

(A) taxes;

(B) insurance;

(C) costs of repairs or maintenance performed by a person or company that is not an employee of the lender or a person or company that directly or indirectly controls, is controlled by, or is under common control with the lender;

(D) assessments levied against the homestead property; and

(E) any lien that has, or may obtain, priority over the lender's lien as it is established in the loan documents [agreement].

(r) The supreme court shall promulgate rules of civil procedure for expedited foreclosure proceedings related to the foreclosure of liens under Subsection (a)(6) of this section and to foreclosure of a reverse mortgage lien that requires a court order.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment relating to the making of advances under a reverse mortgage and payment of a reverse mortgage."

Adopted by the Senate on March 18, 1999: Yeas 31, Nays 0; May 21, 1999, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 24, 1999, House granted request of the Senate; May 29, 1999, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0; adopted by the House, with amendment, on May 18, 1999: Yeas 143, Nays 0, one present not voting; May 24, 1999, House granted request of the Senate for appointment of Conference Committee; May 27, 1999, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, one present not voting.

Filed with the Secretary of State June 1, 1999.

## S.J.R. No. 16

### SENATE JOINT RESOLUTION

proposing a constitutional amendment providing for the issuance of general obligation bonds to finance educational loans to students.

*BE IT RESOLVED BY THE Legislature of the State of Texas:*

SECTION 1. Article III, Texas Constitution, is amended by adding Section 50b-5 to read as follows:

*Sec. 50b-5. ADDITIONAL STUDENT LOANS. (a) The legislature by general law may authorize the Texas Higher Education Coordinating Board or its successor or successors to issue and sell general obligation bonds of the State of Texas in an amount not to exceed \$400 million to finance educational loans to students. The bonds are in addition to those bonds issued under Sections 50b, 50b-1, 50b-2, 50b-3, and 50b-4 of this article.*

*(b) The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Higher Education Coordinating Board or its successor or successors.*

*(c) The maximum net effective interest rate to be borne by bonds issued under this section may not exceed the maximum rate provided by law.*